

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA )  
 )  
v ) CIVIL ACTION NO. 2:06cv300-MHT  
 )  
WILLIE FATE JONES )

## ORDER

Pursuant to the orders of this court, the United States has filed a response addressing the claims presented by the movant, Willie Fate Jones, in his § 2255 motion. *See* August 4, 2006, *Response of the United States* (Doc. # 5). In its response, the government argues that Jones has not pleaded facts or presented evidence or argument in support of his claims of ineffective assistance of counsel sufficient to entitle him to an evidentiary hearing or any other relief on those claims.

Accordingly, it is

ORDERED that on or before August 27, 2006, Jones may file a reply to the response filed by the United States. Any documents or evidence filed after this date will not be considered by the court except upon a showing of exceptional circumstances. At any time after August 27 2006, the court shall “determine whether an evidentiary hearing is required. If it appears that an evidentiary hearing is not required, the [court] shall make such disposition of the motion as justice dictates.” Rule 8(a), *Rules Governing Section 2255 Proceedings in the United States District Courts*.

Jones is instructed that when responding to the assertions contained in the

government's response, he may file sworn affidavits or other documents in support of his claims. Affidavits should set forth specific facts that demonstrate that Jones is entitled to relief on the grounds presented in his § 2255 motion. If documents that have not previously been filed with the court are referred to in the affidavits, sworn or certified copies of those papers must be attached to the affidavits or served with them. When Jones attacks the government's response by use of affidavits or other documents, the court will, at the appropriate time, consider whether to expand the record to include such materials. *See Rule 7, Rules Governing Section 2255 Proceedings in the United States District Courts.* Jones is advised that upon expiration of the time for filing a response to this order, the court will proceed to consider the merits of the pending § 2255 motion pursuant to Rule 8(a).

In his response, Jones should specifically address the issue of how counsel can be ineffective for failing to file a notice of appeal when Jones in his plea agreement waived the right to file an appeal.

Done this 8<sup>th</sup> day of August, 2006.

/s/Charles S. Coody  
CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE